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March 5, 2001

VIA HAND DELIVERY

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

> Re: Verizon request for permission to terminate advanced services UNE loop
> discount, pursuant to CC Docket No. 98-184.

Dear Ms. Attwood:

On March 3, 2001, Verizon notified its competitive LEC wholesale customers, including
Covad, that it would be discontinuing the advanced services UNE loop discounts that it had
agreed to offer as a condition of the Commission's approval of the license transfers from GTE to
Bell Atlantic last year.[1] Verizon plans to terminate the discount, unless the Commission acts
otherwise, on March 17, 2001.

Verizon notes in this industry letter that it filed an *ex parte* letter with you on January 26,
2001, certifying that it has satisfied all of the requirements that underlie the promotional
discount, and asking for permission to end it. Verizon also notes that it submitted evidence to
support its contentions. Covad was unaware that Verizon made any such filing. Indeed, a search
of the Commission's ECFS under CC Docket No. 98-184 reveals no such *ex parte* letter, nor
does the Commission's Bell Atlantic/GTE merger web page contain such a letter. On March 5,
2001, the undersigned contacted a staff attorney in the Accounting Safeguards Division, who
was similarly unable to find a copy of Verizon's letter in the public docket.[2] Nevertheless,
having received notification from Verizon on March 3, 2001, that it intends to end the
promotional loop discounts on March 17, 2001, Covad hereby requests that the Commission

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[1] *See* CLEC Letter at http://www.bell-atl.com/wholesale/html/clec_01/03_03.htm.
[2] The FCC staff attorney contacted Verizon for an electronic copy of the letter, and then provided a copy of that
letter to Covad. As part of the Bureau's inquiry into this matter, it should examine how it is that Verizon's letter
seeking permission to end the mandated loop discount was not provided to the public for comment. Indeed, Verizon
did not even put the letter into the public docket until a month after it was written, and then only upon request from
FCC staff. *See* Letter dated February 22, 2001, from Dee May, Executive Director, Federal Regulatory, Verizon, to
Magalie Roman Salas, Secretary, FCC, at 1.

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issue an immediate stand-still notice to Verizon, requiring it to continue providing this discount until it has fully satisfied the legal requirements underlying that obligation.

The Commission ordered Verizon to provide a 25% discount from the recurring and nonrecurring charges for UNE loops used to provide advanced services, until two conditions are met:

(1) Bell Atlantic/GTE has developed and deployed, in the manner described above, the advanced services OSS interfaces, including any agreed-upon or arbitrated enhancements; *and*

(2) the Bell Atlantic/GTE separate advanced services affiliate uses such interfaces for pre-ordering and ordering at least 75 percent of the facilities it uses to provide advanced services.[3]

Verizon has now certified to you that it satisfies the second requirement – that it has developed an interface for its affiliate, and the affiliate uses it at least 75% of the time. Verizon is entirely silent, however, on the first requirement – that it comply with its OSS legal obligations, imposed by either a state or this Commission. Indeed, as detailed below, Verizon has not yet met its OSS obligations. Therefore, Verizon cannot end its loop discount, and indeed the Commission must ensure that it does not. In addition, the Bureau must take affirmative steps to investigate Verizon's ongoing noncompliance with the Commission's OSS rules.

Verizon's obligation to have "developed and deployed . . . the advanced services OSS interfaces" has not yet been met. Verizon's advanced services affiliate, Verizon Advanced Data, Inc. (VADI), uses a loop prequalification tool called "Livewire." Livewire is a tool that was originally developed and deployed by Verizon the incumbent LEC, and subsequently provided to VADI for its use. Livewire is a software tool that is programmed to make an automatic determination as to whether a particular loop qualifies for Verizon (VADI) retail xDSL service. Livewire makes that determination based on loop makeup information that Verizon culled from its various back-office OSS, principally a database called LFACS. Using the loop makeup information that Verizon possesses in LFACS and other electronic databases, Verizon was able to create a tool, now used by its affiliate, that is programmed with the technical parameters of Verizon (VADI) retail xDSL. For example, if a customer calls into Verizon to order xDSL service, the Verizon customer service representative will run the customer's information through Livewire. If in this case the customer's loop is 19,000 feet long (information on that loop having been culled by Verizon from LFACS), the Verizon customer service representative will inform the end user that service is not available.

Covad has access to the Livewire tool as well. Covad could also tell its potential customer whether or not the loop qualifies for Verizon (VADI) retail DSL. The problem, of course. is that is not what Verizon is obligated by the Commission's rules, and the Bell Atlantic/GTE merger order, to provide. Verizon developed a software tool for VADI that is programmed with the technical specifications of Verizon (VADI) retail xDSL, which is a very

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[3] Bell Atlantic/GTE Merger Order at para. 292 (emphasis in the original).

limited ADSL lineshared service. To provide this tool, Verizon granted itself (and VADI by assignment) access to all of the loop makeup information that Verizon and VADI would need in order to program Livewire to make automatic decisions as to service availability. Of course, because Verizon (VADI) has such a limited retail xDSL offering, it only needed access to loop length and perhaps a few other basic loop parameters.

Covad, on the other hand, has not been granted the same access to Verizon's loop makeup information as Verizon has granted to VADI. If Verizon were treating Covad equal to VADI, as required, Covad would be able to develop its own Livewire-type software tool, so that Covad could make its own automatic determination as to whether a customer could qualify for Covad's retail xDSL service. Covad's services are much more varied and have different technical parameters than Verizon (VADI) retail xDSL. As a result, Covad would need to access the underlying loop information that VADI was able to access, so that Covad could develop its own software tool to tell its own potential customer whether service was available. In the example above of the customer served by a 19,000 foot loop, Covad would gladly seek to serve that customer, but because Verizon refuses to give Covad access to the loop makeup information that Verizon used to program its own retail loop qualification tool, Covad can only tell the end user whether she can qualify for *Verizon (VADI) retail xDSL*, because that is all Livewire is capable of telling. Covad would lose the customer as a result, because Livewire would say that the loop is not qualified – not qualified for Verizon (VADI) retail xDSL.

This obligation on Verizon, to provide access to the underlying loop makeup information that Verizon possesses anywhere in its electronic OSS, was reaffirmed by the Commission in the *UNE Remand Order*. Verizon must provide:

> nondiscriminatory access to the same detailed information about the loop that is available to the incumbent, so that the requesting carrier can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install. Based on these existing obligations, we conclude that, at a minimum, incumbent LECs must provide requesting carriers the same underlying information that the incumbent LEC has in any of its own databases or other internal records. For example, the incumbent LEC must provide to requesting carriers the following: (1) the composition of the loop material, including, but not limited to, fiber optics, copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. Consistent with our nondiscriminatory access obligations, the incumbent LEC must provide loop qualification information based, for example, on an individual address or zip code of the end users in a particular wire center, NXX code, or on any other basis that the incumbent provides such information to itself.[4]

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[4] *UNE Remand Order* at para. 427.

Regardless of whether Verizon's retail representatives actually use all of the loop makeup information that Verizon has in its network, Verizon is obligated to provide access to it to Covad. Without such access, Covad is unable to make "an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install."[5] Indeed, with Livewire, the tool that Verizon relies upon to represent to the Commission that Verizon has satisfied its OSS obligations, Covad is only able to judge whether a loop would be capable of supporting Verizon's own retail xDSL service.

Less than a month ago, Verizon began offering limited access to loop makeup information via a manual workaround that provides Covad loop makeup information a day after it is requested. This obviously does not compare with the instantaneous access that Verizon retail representatives enjoy while the potential customer is still on the phone. In addition, with access coming a day after the request is submitted, Covad obviously cannot build its own Livewire-type tool to handle instantaneous customer inquiries. Verizon itself recognizes the shortcomings of its manual workaround, and has informed the Commission in the context of its pending Massachusetts long distance application that it will have a permanent loop makeup tool available in about eight months. Thus, Verizon offers that in eight months, it will provide Covad the access it needs to loop pre-order information so that Covad can build the same loop prequalification tool that Verizon built for its VADI affiliate.

In sum, Verizon has not yet satisfied its merger condition obligation to make the same OSS pre-order capabilities available to competing carriers as it does to its own affiliate. The Commission imposed the 25% UNE loop discount obligation in order to provide incentive to Verizon to facilitate nondiscrminatory OSS access as quickly as possible. Verizon still needs that incentive, now more than ever. Eight months is too long for Covad to wait for such OSS capabilities as VADI enjoys today – and the Commission has already stated that the 25% discount is intended to help offset that competitive harm. The Commission cannot, and should not, permit Verizon to continue to inflict that harm. Until Verizon has "developed and deployed . . . the advanced services OSS interfaces" required by the Commission's rules, in particular real-time electronic access to all loop pre-qualification information, Verizon is not in compliance with paragraph 25 of its merger conditions, and the Commission must act immediately to prevent Verizon from ending the 25% UNE loop discount mandated by that condition.

Please do not hesitate to contact me with any questions.

Respectfully submitted,

Jason Oxman
Senior Counsel

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[5] *Id.*

cc: Carol Mattey
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